



Jamaica

Country Reports on Human Rights Practices - [2002](#)

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Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; however, in October general elections, Prime Minister P.J. Patterson's People's National Party (PNP) won an unprecedented fourth consecutive term. The PNP won 34 of the 60 seats in Parliament after a tense campaign that was less violent than previous elections. International observers found that intimidation of voters and party agents was a problem during the general elections. The judiciary was generally independent but lacked adequate resources.

The Jamaica Constabulary Force (JCF) had primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest, unless so ordered by the Prime Minister. The Prime Minister occasionally gave the JDF powers to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses.

The market economy was based largely on tourism, production of primary products (bauxite and alumina, sugar, bananas), and remittances. The country's population was approximately 2.6 million. The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a difficult program of structural adjustment. The economy grew by an estimated 0.5-1.0 percent during the year, compared with 1.7 percent in 2001. There was a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed some unlawful killings. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. There were reports of arbitrary arrest and detention. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor was a problem, as was child prostitution. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Jamaica was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were at least 5—and possibly as many as 12—politically motivated killings during the year, committed by supporters of various political factions. The police committed some unlawful or unwarranted killings during the year.

Although there is a history of political violence and killings in the period leading up to elections, the last three general elections were relatively calm (see Section 3).

On January 3, unidentified gunmen shot and burned to death seven persons, including two children, in a nighttime attack in the 100 Lane area of Kingston, a community linked to the PNP. Police at a nearby station failed to respond to the attack. Police believed that the incident was a reprisal for a January 1 attack in the Jamaica Labor Party (JLP)-controlled Parke Lane area in

which one person was killed. Most observers believed that both incidents were criminal reprisal killings, rather than politically motivated murders.

In August three persons were shot and killed, and another was shot and injured after a dispute over the removal of political graffiti in Spanish Town, St. Catherine parish. The placement of political flags led to increased tension and the murders of JLP supporters. In September 2 people were killed and at least 13 wounded in a series of drive-by shootings between rival political enclaves in central Kingston. In response to these incidents and other threats of violence, the newly appointed Political Ombudsman went to the scene to reduce tensions (see Section 4).

On October 16 (election day), seven people, including a child and three women, were murdered in the early morning in Rock Hall, St. Andrew. The first murder was that of a JLP political worker killed near a polling station; then members of two families were killed at their homes. The victorious opposition candidate for the area expressed concern that the killings were politically motivated. In December the police arrested two 17-year-olds and charged them with seven counts of murder. The police linked the killings to a gang conflict involving a stolen gun.

The police frequently employed lethal force in apprehending criminal suspects. During the year, there were 149 deaths, including those of 16 police officers, during police encounters with criminals, compared with 163 such deaths in 2001. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 40 per 100,000 persons. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols. There were targeted assaults against police officers and their families.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The Bureau of Special Investigations (BSI) within the JCF specifically addressed police shootings; the BSI employed 29 investigators. The BSI supplemented the JCF Office of Professional Responsibility (OPR), which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had 13 investigators.

On July 22, police shot and killed 7-year-old Romaine Edwards during what police said was a shoot-out with gangsters in Lawrence Tavern, St. Andrew. Area residents agreed there was no shoot-out between police and gunmen. The authorities subsequently transferred all seven officers from Lawrence Tavern to another police station. The BSI immediately took the case, which was still under investigation at year's end.

On November 15, the police allegedly shot and killed a 24-year-old mentally retarded man, Daemon Roache, in Kingston while in pursuit of three robbers. Residents claimed police shot Roache in the back and head. Over 100 residents protested the shooting, and a human rights NGO criticized the police action. At year's end, the BSI was investigating the incident.

During the year, at least five detainees died while in police lockups; some of the deaths involved negligence (see Section 1.c.).

In December 2001, police shot and killed 26-year-old Dave Steele after a vehicular pursuit in Trelawny. Police said that they fired warning shots, but witnesses said that police shot Steele in the back after he exited the car. A 300-person crowd demonstrated following the incident and erected roadblocks. On July 30, the Director of Public Prosecutions (DPP) ruled that a special constable should be charged with the murder, and the case was before the courts at year's end.

The case of a farmer killed by police in January 2001 remained pending before the DPP at year's end.

On October 3, a 10-member jury for the coroner's inquest into the March 2001 killings of seven youths by the police Crime Management Unit in Braeton, St. Catherine parish, found the police "not criminally responsible" by a 6 to 4 vote. By law, a jury comprising seven or more persons cannot have more than two dissenters; if it does, the Coroner may hold a new inquest or the resident magistrate may refer the case to the DPP for a ruling. An Amnesty International press release called the inquest "deeply flawed" and asked the DPP immediately to instigate criminal proceedings against the police officers involved.

In July 2001, a joint police-army operation entered Tivoli Gardens, West Kingston, reportedly to search for an arms cache following months of unrest in West Kingston. During the operation, 25 civilians, 1 policeman, and 1 soldier were killed in violence that lasted for several days. The police said that they came under heavy fire from gunmen. The opposition leader, who was the parliamentarian for Tivoli Gardens, contended that the police operation was intended to discredit him before national elections. The Prime Minister established a Commission of Inquiry, which concluded in June that the events were not political and that the police acted with restraint. The Commission blamed the violence on the presence of drugs in the neighborhood and the proliferation of guns and ammunition in the hands of civilians. Also in June, the opposition leader released an affidavit that suggested that politically fueled rivalries and police inaction in the face of the imminent melee were to blame for the outbreak of disturbances. Amnesty International representatives expressed concern that the inquiry did not conform to international standards.

In October 2001, police killed Andrew Stephens, a JLP "don" (gang leader), reportedly in a shoot-out. In March the police sent the case to the DPP, where it remained at year's end.

In July a court acquitted a policewoman of murder in the 2000 shooting of a man in Farm district, Clarendon parish.

In May 2001, a coroner's inquest recommended that all the police involved in the 1999 death of Patrick Genius should be held criminally responsible. In December 2001, the DPP ruled that there was insufficient evidence to support a criminal case against the police. The Supreme Court refused an appeal brought by Genius' mother. On October 31, the Full Court, made up of the Chief Justice and two other justices, ruled that the lawyers may challenge the DPP's decision, which required the DPP to reconsider whether to prosecute the police involved. Human rights groups praised the decision; the case remained before the Full Court at year's end.

In 1999 nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a roadblock near his home after curfew. Gayle died as the result of internal injuries; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, no criminal charges were filed, and the DPP closed the case in December 2001. In March the local human rights group Jamaicans for Justice presented a petition to the Inter-American Commission on Human Rights regarding the case; responses to the petition were in progress at year's end.

The JCF undertook an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The Human Rights Advisor to the Minister of National Security and Justice worked to educate JCF trainees and junior officers to respect citizens' rights. The Jamaica Chamber of Commerce Inner-City Development Committee and the Jamaica Social Investment Fund distributed a Police Code of Conduct and a Charter of Citizen's Rights to police officers and citizens. The Police Federation conducted lectures to educate policemen in citizens' rights. The Government, the Independent Jamaica Council for Human Rights, and foreign governments developed human rights materials to be used in all subjects at the primary and secondary levels, which were being tested in selected classrooms at year's end. The JCF policy statement on the use of force incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 11 vigilante killings during the year, the motives for which varied—some victims were targeted, while others were the result of spontaneous mob action. On July 20, an angry mob of local residents beat and then burned to death a man accused of committing several rapes and robberies in St. Catherine. On August 18, a mob stabbed a bus driver 56 times and slashed his throat after an altercation between the driver and a passenger left the passenger injured. Human rights advocates contended that police did not consider such murders a priority and expressed concern that the perpetrators rarely were charged.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

In July 2001, after demonstrators blocked parish roads to protest demolition of 17 squatter homes, local police and the JCF Mobile Reserve Unit attempted to disperse the crowd, using tear gas, batons, and firing live ammunition in the air. Prime Minister Patterson requested a report on the demolition operation and a review of procedures for ejecting squatters, and the OPR investigated accusations of police excesses. In January the BSI submitted the case to the DPP, where it remained at year's end.

In April the DPP ruled that two police officers should be charged with wounding with intent and malicious destruction of property for a June 2000 incident in which police fired on a minibus when the driver failed to stop at a roadblock. The police concluded an investigation into the incident and sent it to the DPP's office in September 2001. The case was before the courts at year's end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care were typical. There were no reports of prison riots. The majority of pretrial detainees were held in police lockups. After an April escape from the Spanish Town lockup, the Minister of National Security ordered the Horizon Remand Center to receive prisoners, which immediately eased overcrowding in lockups.

On March 24, a prisoner at Mandeville police station died after being beaten by other prisoners at the lockup. The authorities charged five members of the police force with failing to carry out proper supervision and suspended two police constables. The Public Defender began proceedings to obtain compensation from the Government on behalf of the victim.

On March 25, a prisoner at Bull Bay lockup died in police custody. On August 30, a prisoner in a Manchester lockup died in police custody. Both cases were being investigated at year's end.

In March media reports stated that mentally ill inmates were being used as sex slaves in prison. A former medical officer and a psychiatrist at the St. Catherine Adult Correctional Facility said that mentally ill inmates and other "weaklings" had been raped repeatedly, and that prison officials were aware of the problem.

On May 7, two Remand Center wardens were kept hostage for over 2 hours in a security post. On July 8, the JDF took operational control of the Remand Center after one detainee escaped and others attacked a correctional officer; at year's end, the center remained under JDF control.

Between July and August 2001, four detainees who were held at the Hunt's Bay police station lockup in Portmore, St. Catherine parish, died under unexplained circumstances. In May the DPP ruled that the case should be sent to the Kingston Criminal Court, where charges were pending against the Hunt's Bay wardens at year's end. An April 2001 Amnesty International report documented severe overcrowding (more than three times intended capacity), cells without lighting or sanitation, and lack of medical care and adequate food in the Hunt's Bay lockup. The report detailed frequent and credible allegations of police abuse in lockups, including severe beatings, mock executions, and rape. Although Hunt's Bay lockup closed in 2001, the authorities reopened it during the year.

A separate prison for women—the Ft. Augusta Women's Prison—was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Ft. Augusta was also relatively safer and had less violence than the men's prisons. However, inmates at Ft. Augusta complained of other inmates carrying knives and other weapons.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles were held with adults. A 1999 Human Rights Watch report criticized the conditions in which juveniles were held. The Government charged Ministry of Health officers with finding appropriate "places of safety" for juveniles, and adopted new procedures, which were considered effective on the whole.

On March 26, two toddlers ended up in a police cell with their mothers but were released after the intervention of a senior police officer. The Office of the Public Defender and the police each began investigations into the incident, and in December the Attorney General's Office paid each mother approximately \$1,050 (J\$50,000) in compensation.

In 2000 the Court of Appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison. In November the Government argued its appeal of the ruling before the judicial committee of the Privy Council in the United Kingdom, which had not ruled at year's end.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile

The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. There were some reported incidents of arbitrary arrest during the year, and the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period.

In March 2001, a magistrate's court freed a 76-year-old man who had been held in prison for 29 years without trial because he had been judged unfit to plead due to mental illness. Following public scrutiny, the Government acted swiftly to determine the number of such cases (which human rights advocates estimated at between 200 and 500) and bring them before the courts. During the year, between 20 and 25 mentally ill persons were released, and human rights organizations helped some of them to file false imprisonment cases against the Government. Each new "unfit to plead" case must be brought to the court's attention once per month, and human rights organizations were satisfied that such persons were less likely to be forgotten.

The law requires police to present a detainee in court within a reasonable time period, but the authorities continued to detain suspects beyond such a period, which the Government attributed to an overburdened court system that could not accommodate large numbers of such presentations in a timely manner (see Section 1.e.). Magistrates inquired at least once a week into the welfare of each person listed by the JCF as detained. There was a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they could not afford to pay, they were jailed until relatives or consulates could arrange for transportation.

The Constitution prohibits forced exile, and there were no reports that it occurred.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, which generally existed in practice. However, the judicial system was overburdened and operated with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants had the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hindered due process. For example, the media reported in August that 80 percent of coroner's inquests ordered by the DPP were yet to be held. The BSI also was faced with a large backlog. As of December 1, the BSI had investigated 521 of 976 shooting incidents during the year. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located. A night court had some success in reducing the backlog of cases.

The defendant's right to counsel is well established. Legal aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for persons who have had their constitutional rights violated. The Public Defender's Office contracted private attorneys to represent clients. There were sufficient funds and legal aid attorneys to meet demand.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary intrusion by the State into the private life of an individual. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

In 2000 the media reported allegations that a special police unit wiretapped telephones without proper authorization in an investigation of police involvement in narcotics trafficking. Following an investigation, in July 2001, the DPP ordered that the civilian head of the unit and two telephone company employees be charged with interfering in the operation of a public utility. In December the case against the two employees was scheduled for a hearing; the other person was thought to be living outside the country.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The four largest newspapers, all privately owned, regularly reported on alleged human rights abuses, particularly those involving the JCF. Foreign publications were widely available. There were 3 television stations and 16 radio stations. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions were unregulated and widely available through satellite antennas and cable operators.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. There were several community protests against police actions during the year. Residents staged demonstrations to protest incidents such as the alleged unwarranted police killing of a man in December 2001, and the July police killing of a child (see Section 1.a.).

Security personnel generally acted with restraint during public demonstrations. In August local police units used tear gas against protesting residents and fired into the air during a violent protest against the alleged police killing of a man in Trench Town. The police alleged that the man was a wanted murderer who engaged them in a gun battle.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. Rastafarianism is not a recognized religion under the law. In January the Public Defender's office brought a case to the Constitutional Court to gain government support of Rastafarianism as a religion, which was scheduled for a hearing in February 2003.

Rastafarians had no right to prison visits by Rastafarian clergy. In August 2001, the Public Defender's Office filed a lawsuit against the Government on behalf of a Rastafarian prisoner who charged that he was denied the right to worship. The prisoner complained that he had no access to the ministrations by clergy afforded to prisoners of other religions. The Commissioner of Corrections and Attorney General were named as respondents; the suit had yet to be heard.

For a more detailed discussion see the [2002 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Government provided asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government established a committee and formal procedures to review claims to refugee status. In November 2001, a group of 128 Haitians arrived in the country. According to immigration officials, 122 were judged to be economic migrants and were not considered for asylum. The other six Haitians were considered for asylum; their appeals were heard on September 2, and they were granted asylum. The committee denied all claims to refugee status by Cubans during the year.

The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over had the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote. Although there is a history of political violence and killings in the period leading up to elections, the October 16 elections were less violent than previous general elections. There were some reports of intimidation of voters and party agents.

Two political parties—the PNP and the JLP—have alternated in power since the first elections in 1944; however, Prime Minister P.J. Patterson's PNP won an unprecedented fourth consecutive term and 34 of the 60 seats in Parliament in the October elections. The opposition JLP held 26 seats; none of the other parties won a seat or received a significant percentage of votes in any constituency.

Improvements in the electoral system, including introduction of new voter's identification cards, the inclusion of voter's pictures on the voter's list, and fingerprinting of voters at registration helped to reduce fraudulent voting, which was more prevalent in 1997 elections.

Incidents of violence and intimidation—including killings, gunfire, and stone throwing—occurred throughout the election period (see Section 1.a.). After campaign rallies of both parties, opposing party supporters stoned buses carrying home rally-goers, resulting in minor injuries. The police rerouted buses to minimize confrontations between party supporters. The security forces controlled violence and generally acted with restraint throughout the election period. Most killings were attributed to criminal rather than political motives.

During the general election campaign, both international and local observer groups concluded that the occurrence of violence, although reduced, continued to be a serious concern in the electoral process. Problems persisted in the garrison communities, including intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. International observers found that intimidation of voters and poll workers appeared to decrease relative to past elections, but was still a problem. They found that the election preparations showed significant advances over the past, and that the security forces played a critical role on election day in maintaining peace and order. The international observers lauded the Code of Conduct, the central Elections Center, and the office of the Political Ombudsman as advances over the 1997 elections.

There were no legal restrictions on the participation of women in politics. Women held about 8 percent of all political offices and 30 percent of the senior civil service positions. Three of the 17 cabinet members were women, one of whom was also the PNP General Secretary.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The nongovernmental organization (NGO) Jamaicans for Justice was a human rights group created in 1999 in response to concerns about police impunity; it focused on the issues of extrajudicial killing and excessive use of force by the police. Jamaicans for Justice reported that undercover police regularly attended its meetings. The group wrote a weekly newspaper column and had a cordial relationship with the police. For example, following the April killing of a police constable, the group called that killing an "attack on the justice system." Government officials generally were cooperative and responsive to the views of human rights organizations. However, in June the Attorney General and Minister of Justice responded to NGO scrutiny of the Government's handling of specific human rights abuses such as the Breaton and Gayle cases (see Section 1.a.). He stated that judging a country's human rights record solely on abuses carried out by members of the security forces "cannot serve the cause of protecting the rights of our citizens in a comprehensive and wholesome manner."

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office incorporated the former post of Parliamentary Ombudsman, intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights were infringed. The office contracted private attorneys to bring suits against the Government on behalf of private citizens. During the year, the Public Defender successfully sought compensation for a number of citizens, including two jailed toddlers (see Section 1.c.) and a prisoner who had his hand broken by a warden at St. Catherine prison. The Public Defender also was seeking compensation for a police officer who had his murder conviction overturned by the Privy Council. That officer spent 11 years in prison, and his Privy Council appeal was held up for 5 years due to the State's failure to provide the court reporter's notes to the Privy Council.

On July 26, the Senate approved the Political Ombudsman (Interim) Act, which separated the functions of the Political Ombudsman from the Public Defender's Office. The Political Ombudsman became a functionary of the Parliament, charged with monitoring the actions of political parties and their supporters in an effort to reduce political violence (see Sections 1.a. and 3). The Political Ombudsman is charged officially with investigating any action taken by a political party, or its members or supporters, that may constitute a breach of any agreement or code (such as the Code of Political Conduct, signed by party leaders in June), or is likely to prejudice good relations between supporters of the political parties. The act also empowers the Political Ombudsman to appoint a tribunal or political party representatives to investigate complaints.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3).

The Jamaica Forum for Lesbians, All Sexuals, and Gays released testimony alleging human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbing, harassment of gay patients by hospital staff, and targeted shootings of homosexuals. In October the United Kingdom granted three gay men asylum based on their fear of persecution in Jamaica, and other such asylum applications reportedly were pending. Individuals committed acts of violence against suspected homosexuals; for example, in May a neighbor broke into a private home and caught two boys in a homosexual act. He called other neighbors who joined him in the home. The neighbors beat the boys until they fled, leaving their clothing behind.

Women

Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. During the year, the number of reported incidents of rape decreased by 4 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to about \$200 (J\$10,000) and 6 months' imprisonment.

There is no legislation that addresses sexual harassment, and it was a problem. There were no reports of sexual harassment of women by the police. Some observers believed that women did not report such incidents because there was no legal remedy.

The law prohibits prostitution; however, it was widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women. During the year, the Bureau completed a review of a number of laws for gender bias and forwarded this review to Parliament.

There was an active community of women's rights groups. A month before the October election, 25 NGOs presented their "Women's Manifesto," which particularly noted the "lack of national attention to sexual crimes" and called on candidates and parties to commit to principles of the manifesto. Chief among the groups' concerns was the prevalence of a societal indifference toward, or acceptance of, rape and other sexual crimes against women and girls. The launch had moderate media support and coverage but little impact on election debates. Women's groups were concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media.

Children

The Government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government's programs for children. The Educational Act stipulates that all children between 6 and 12 years of age must attend elementary school. However, due to economic circumstances, thousands of children were kept home to help with housework and avoid school fees.

A National Youth Development Center, part of the Ministry of Education, Youth, and Culture, coordinated youth programs.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, especially in inner cities. NGOs reported that inner city "dons" or community leaders and sometimes even fathers initiated sex with young girls as a "right." There were 270 reported cases of carnal abuse—sex with girls under 16—during the year. The Government expressed concern about child abuse and admitted that incidents were underreported. Child prostitution was a problem (see Section 6.f.).

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section 1.c.).

In 2001 the Government began the Possibilities Program to alleviate the problems of street children; the program included a care center, a resocializing center, and three skills centers.

Persons with Disabilities

No laws mandate accessibility for persons with disabilities, who encountered discrimination in employment and denial of access to schools. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Minister of State for Labor and Social Security, who is blind, reported that out of a disabled population of approximately 250,000, only about 200 persons were gainfully employed—90 percent by the Government. The Government trained persons with disabilities for jobs within the information technology sector, and added two buses equipped with hydraulic lifts for wheelchairs during the year. In 2001 it was reported that numerous persons declared unfit to plead remained in prison without trial (see Section 1.d.). Human rights organizations were satisfied with the Chief Justice's order that each "unfit to plead" case be brought to the court's attention once a month.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. The country's poor economy led to a decline in union membership. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

All major trade unions were affiliated with some major regional or international labor organizations.

b. The Right to Organize and Bargain Collectively

There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforced the LRIDA and other labor regulations. All parties were committed firmly to collective bargaining in contract

negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The International Labor Organization (ILO) Committee of Experts (COE) considered that where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contended that this would unduly lengthen negotiations.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes did occur. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs. Other than in the case of prison guards, there was no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the ILO repeatedly criticized as overly inclusive.

There were a few strikes during the year. In November electric utility company workers defied a 30-day injunction against strike action issued by the Supreme Court and staged a brief strike. At year's end, the Ministry of Labor was involved, and negotiations continued.

Beginning in 1999, prison guards conducted an islandwide sickout to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities placed them on forced leave at one-fourth pay, brought disciplinary charges against the guards, and declared the work stoppage illegal. On May 13, the Public Services Commission accepted the petition from the National Security Minister not to proceed with charges against those correctional officers who accepted the negotiated agreement between the Government and their unions, and 616 warders were reinstated. They were expected to receive approximately \$9.4 million (J\$450 million) in back wages.

Domestic labor laws applied equally to the "free zones" (export processing zones). However, there were no unionized companies in any of the 3 publicly owned zones, which employed 7,813 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, but attempts to organize plants within the zones continued. Company-controlled "workers' councils" handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Bonded Labor

The Constitution does not specifically prohibit forced or bonded labor by either adults or children, but there were no reports that this practice occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the Ministry of Health is charged with finding places of safety for children. However, according to Ministry officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 were seen peddling goods and services or begging on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see Section 5).

With assistance from the ILO's International Program for the Elimination of Child Labor, the Government undertook several sector-specific programs to study and combat child labor. These included a data collection component, awareness raising activities, and direct action to identify and withdraw children from the worst forms of child labor, particularly prostitution, fishing, tourism, and the informal sectors. An ILO adviser overseeing the project was assigned to the Labor Ministry and conducting various assessments of the problem.

e. Acceptable Conditions of Work

The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage, raised from \$25 (J\$1,200) to \$38 (J\$1,800) per week during the year, was considered to be inadequate to provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, which were considered

adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. Trafficking in Persons

The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. A 2000 ILO study found child prostitution, involving girls as young as 10 years old, to be a widespread problem in all parts of the country. Other than that, there were no confirmed reports that persons were trafficked to, from, or within the country.